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Paper No.

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OFFICE OF PETITIONS

In re Application of
John Korbler and Xuecang Geng
Application No. 10/699,042
Filed: October 31, 2003
Attorney Docket No.
Title: SUBSTRATE PROCESS TANK WITH
ACOUSTICAL SOURCE TRANSMISSION AND
METHOD OF PROCESSING SUBSTRATES

DECISION REFUSING STATUS
UNDER 37 CFR § 1.47(a)

This is a decision on the "PETITION TO ACCEPT DECLARATION UNDER 37 CFR 1.47," filed April 1, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on October 31, 2003, without an executed oath or declaration and missing the statutory basic filing fee. Accordingly, on February 2, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration, payment of the filing fee and payment of the surcharge for late filing under § 1.16(e).

In response, rule 47 applicant timely filed the instant petition, along with payment of the petition fee, the basic filing fee, and the late surcharge. On petition, applicant asserts that status under § 1.47(a) is proper because inventor Geng refuses to join in the application. In support thereof, applicant submits a declaration of facts of patent attorney Brian Belles.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. By declaration of patent attorney Belles, petitioner has shown that the application papers were presented to patent attorney Leo Clossey for inventor Geng. The declaration (and supporting exhibits) supports a conclusion that by his conduct, in not responding, inventor Geng has refused to join in the application. The petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Geng.

However, the petition does not include an acceptable declaration. Pursuant to 35 U.S.C. 115 and 37 CFR § 1.63(a)(3), an oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must identify the country of citizenship of each inventor. Although the declaration submitted identifies by name and mailing address and/or residence inventor Geng as a joint inventor, the declaration does not include the citizenship of inventor Geng. (The space where his citizenship would be entered is blank).

The requirement for the citizenship of inventor Geng is statutory and cannot be waived. A new declaration is required.

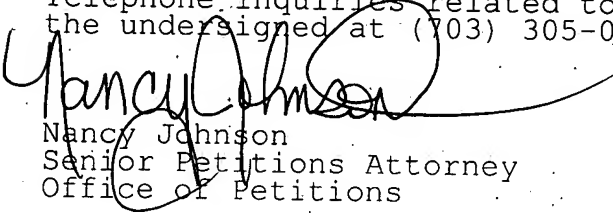
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
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By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: CUSTOMER SERVICE WINDOW¹
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Effective June 5, 2004, patent correspondence delivered by hand or delivery services, other than the USPS, to the Customer Window must be addressed as follows: U.S. Patent and Trademark Office, 220 20th Street S. Customer Window, Mail Stop _____, Crystal Plaza Two, Lobby, Room 1B03, Arlington, VA 22202..